

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

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<b>METRICOM, INC.</b>	)	
<b>(Complainant)</b>	)	
	)	
<b>v.</b>	)	<b>D.T.E. No. 01-40</b>
	)	
<b>BOSTON EDISON CO.</b>	)	
<b>(Respondent)</b>	)	
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**COUNSEL'S EXPEDITED MOTION TO WITHDRAW**

LeBoeuf, Lamb, Greene & MacRae, LLP, ("LLGM"), counsel of record for Metricom, Inc. ("Metricom"), the Complainant herein, respectfully moves the Department for leave to withdraw as counsel for Metricom in this proceeding and moves the Department to expedite its review of this Motion to Withdraw, on the following grounds:

1. On July 2, 2001, Metricom filed a voluntary petition for reorganization under Chapter 11 of the U.S. Bankruptcy Code in the United States Bankruptcy Court for the Northern District of California, San Jose Division ("Bankruptcy Court"). *In Re: Metricom, Inc. et al.*, Case No. 01-53291 ASW (N.D. Cal.).
2. Within the following eight days, Metricom filed and served upon all parties to this proceeding ("Parties") Responses and Supplemental Responses to the Second Set of Information Requests issued by the Department to Metricom on July 6, 2001 and July 10, 2001, respectively.
3. On July 12, 2001, Metricom filed with the Bankruptcy Court an Application for Order Authorizing Employment and Retention of LLGM as Special

Litigation Counsel For Debtors and Debtors-In-Possession (“Application”). The Application sought approval of the Bankruptcy Court for LLGM to continue representing Metricom in the pending pole attachment complaint proceeding.

4. Also on July 12, 2001, Metricom filed a motion for extension of time with the Department to allow sufficient time to obtain the necessary approval of the Bankruptcy Court for LLGM to be appointed as special counsel to proceed with the representation of Metricom following its July 2, 2001 Chapter 11 petition, through to the conclusion of this proceeding. Metricom negotiated with the other Parties in this proceeding a proposed new procedural schedule that was approved by the Hearing Officer on July 18, 2001.

5. On July 19, 2001, LLGM was informed that the Creditors Committee in the Metricom bankruptcy proceeding had raised an objection to Metricom’s application for appointment special litigation counsel. Attempts were then made by Metricom bankruptcy counsel to determine if the Creditors Committee might withdraw its objection. These attempts have proven unsuccessful.

6. On July 25, 2001, due to the Creditors Committee opposition to Metricom’s application, Metricom decided not to pursue the application to have the Bankruptcy Court decide whether LLGM should be appointed as special litigation counsel by the Bankruptcy Court.

7. Metricom was informed by LLLGM on July 25, 2001 of this motion to withdraw and Metricom does not object to this motion. Furthermore, Metricom has been advised of the current procedural schedule in this proceeding. Metricom has given no indication of any intent to drop this complaint; therefore, the Department should go

forward with this complaint proceeding under the revised procedural schedule. All future notices, pleadings and correspondence in this proceeding should be served upon Metricom to the following address: Mr. Stephen Apollo, Metricom, Inc., 218 Middlesex Street, Harrison, NJ 07029, tel. (973) 849-2435, fax: (973) 849-2481.

WHEREFORE, for the foregoing reasons, LeBoeuf, Lamb, Greene & MacRae, LLP moves for an Order granting it leave to withdraw as counsel of record for the complainant, Metricom, Inc. in this proceeding and for expedited review of this Motion to Withdraw.

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Dated: July 26, 2001

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## CERTIFICATE OF SERVICE

I, Elizabeth R. Cerda, hereby certify that copies of the foregoing Counsel's Expedited Motion to Withdraw were served via hand delivery to all parties on the service list for D.T.E. 01-40 on file with the Secretary of the Department of Telecommunications and Energy, except for Geraldine Zipser, to whom a copy was sent overnight via FedEx.

Dated at Boston, Massachusetts this 26th day of July, 2001.

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Elizabeth R. Cerda

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